

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

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COMMERCE COMMISSION

Apr 14 8 57 AM '00

COMMONWEALTH EDISON COMPANY )  
)  
)  
Petition for expedited approval of )  
implementation of a market-based alternative )  
tariff, to become effective on or before May )  
1, 2000, pursuant to Article IX and Section )  
16-112 of the Public Utilities Act )

Docket No. 00-0259

CHIEF CLERK'S OFFICE

**REPLY OF**  
**ENRON ENERGY SERVICES, INC.**  
**TO THE RESPONSES TO THE PROCEDURAL**  
**SCHEDULE PROPOSED BY COMMONWEALTH EDISON COMPANY**

Pursuant to the Hearing Examiner's Notice dated April 10, 2000, Enron Energy Services, Inc. ("Enron"), by Piper Marbury Rudnick & Wolfe, its attorneys, hereby files its Reply to the Responses to the procedural schedule proposed by Commonwealth Edison Company ("Edison") in the above-captioned proceeding.

Enron generally shares the concerns raised by the Staff of the Illinois Commerce Commission ("Staff"); CMS Marketing, Trading and Services Company ("CMS"); the Illinois Industrial Energy Consumers ("IIEC"); and the Midwest Independent Power Suppliers Coordination Group ("MWIPS"). As explained in the objections of Staff and the parties, Edison's petition improperly requests that the Illinois Commerce Commission ("Commission") exercise its discretion to allow Edison to institute a process that violates due process and is contrary to the Commission's rules, Commission practice and Illinois law. For its reply, Enron respectfully states as follows:

1. The Commission's Rules of Practice set forth the standards that the Commission should use when exercising its discretion. (See 83 Ill. Admin. Code

200.25(a)-(e).) The Commission's Rules explain that maintaining the integrity of the fact-finding process is the primary goal of the hearing process. "The principal goal of the hearing process is to assemble a complete factual record to serve as basis for a correct and legally sustainable decision." 83 Ill. Admin Code 200.25(a). As Staff and the other parties properly note, Edison's request would undermine the very goals of the Commission's Rules of Practice. (See Staff Response at 3; IIEC Response at 1, 2, 3, 5; MWIPS Response at 2.)

2. The procedure requested by Edison also would undermine the goal of fairness embodied in the Commission's Rules of Practice. (See 83 Ill. Admin. Code 200.25(b).) As IIEC notes, Edison's proposed schedule is "unrealistic, unworkable, unfair and essentially unheard of . . . in prior Commission proceedings." (See IIEC Response at 2.) As IIEC explained, Edison proposed schedule does **not** even contemplate:

- time for discovery;
- the filing of direct testimony by any part except Edison;
- parties responding to another's testimony;
- initial briefs, reply briefs, or reply briefs on exceptions.

(See IIEC Response at 2-3.)

3. Staff, CMS, IIEC, and MWIPS all raise legitimate concerns that the proposed schedule does not allow adequate time for the parties to fully address and analyze the issues, much less propose alternatives, and does not allow for the Commission to be fully informed and have sufficient time to deliberate on those issues.

Similarly, Staff properly expressed concern that the Commission would not have time to contemplate the substantive issues that will arise in the instant proceeding.


If adopted, Edison's proposal would fundamentally alter the structure of the Illinois energy market for the foreseeable future. The Commission should not make legal and policy decisions without the benefit of a procedural schedule that allows for a full and complete record to serve as the basis for a legally sustainable order.

WHEREFORE, Enron Energy Services, Inc. respectfully requests that the schedule proposed by Commonwealth Edison Company be rejected and that the Hearing Examiner adopt a more traditional schedule, such as the schedule proposed by IIEC.

Respectfully submitted,

**ENRON ENERGY SERVICES, INC.**

By:

  
One of Its Attorneys

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DATED: April 11, 2000

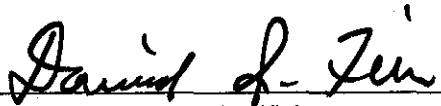
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**NOTICE OF FILING**

Please take note that on April 11, 2000 we mailed an original and (3) copies of the Reply of Enron Energy Services, Inc. to the Responses to the Procedural Schedule Proposed by Commonwealth Edison Company in the above-referenced proceeding to the Chief Clerk of the Illinois Commerce Commission, Donna Caton, 527 E. Capitol Avenue, P.O. Box 19280, Springfield, IL 62794-9280.

Dated: April 11, 2000

  
David I. Fein

**CERTIFICATE OF SERVICE**

I, David I. Fein, certify that copies of the foregoing Reply of Enron Energy Services, Inc. to the Responses to the Procedural Schedule Proposed by Commonwealth Edison Company were served upon the parties on the attached service list via U.S. Mail and electronic delivery from 203 N. LaSalle Street, Chicago, Illinois 60601 on April 11, 2000.

  
David I. Fein

**SERVICE LIST**

**DOCKET NO. 00-0259**

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